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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

MICHAEL LEWIS, LAUREN TAYLOR,
C.L., a minor, and B.L., a minor, by and
through Guardian Ad Litem,

Plaintiffs,

v.

COUNTY OF SAN DIEGO, et al.,

Defendants.

Case No.: 13-CV-02818-H-JMA

ORDER:

**(1) GRANTING REASONABLE
ATTORNEYS' FEES**

**(2) REQUESTING
SUPPLEMENTAL BRIEFING
CONSISTENT WITH THIS
ORDER'S DETERMINATION
OF REASONABLE HOURS
AND REASONABLE HOURLY
RATES**

[Doc. No. 259]

24 On September 29, 2017, Plaintiffs C.L. and B.L., by and through their Guardian Ad
25 Litem Lauren Taylor ("Plaintiffs"), filed a motion for attorneys' fees and costs pursuant to
26 42 U.S.C. § 1988. (Doc. No. 259.) On October 27, 2017, Plaintiffs filed supplemental
27 briefing in support of their motion. (Doc. No. 273.) On November 9, 2017, Defendant
28 County of San Diego ("the County") filed its opposition to the motion. (Doc. No. 275.) On

1 November 17, 2017, Plaintiffs replied. (Doc. No. 277.) On November 27, 2017, the Court
2 requested supplemental briefing from Plaintiffs regarding the fees sought for a paralegal's
3 work on this case. (Doc. No. 278.) Plaintiffs filed supplemental briefing on December 1
4 and December 4, 2017. (Doc. Nos. 279, 282, 283.) The County filed supplemental briefing
5 on December 4, 2017. (Doc. No. 281.) On December 8, 2017, the County also filed an
6 opposition to Plaintiffs' bill of costs. (Doc. No. 284.)

7 On December 1, 2017, the Court held a hearing on the motion. Robert Powell
8 appeared for Plaintiffs. David Brodie and Erica Cortez appeared for the County. For the
9 following reasons, the Court grants Plaintiffs reasonable attorneys' fees. For purposes of
10 calculating the lodestar figure, the Court also requests supplemental briefing from Plaintiffs
11 consistent with this Order's determination of a reasonable number of hours and reasonable
12 hourly rates.

13 **FACTUAL AND PROCEDURAL BACKGROUND**

14 On August 8, 2011, Defendants Ian Baxter and Nancy Quinteros, County social
15 workers, visited the home of Plaintiffs Michael Lewis and Lauren Taylor, parents of C.L.
16 and B.L. (II-111:25-112:12.)¹ Baxter and Quinteros were responding to a referral from the
17 Coronado Police Department, which had previously visited the home and observed a
18 marijuana processing lab, along with a high volume of marijuana, marijuana derivatives,
19 and marijuana paraphernalia. (II-10:7-9, II-30:13-19, II-24:17-20, II-32:24-33:5, II-54:17-
20 21, II-81:20-82:1.) After observing the home and interviewing Plaintiffs, Baxter and
21 Quinteros removed the children at the instruction of their supervisor, Benita Jemison. (II-
22 250:17-251:4, II-120:6-7, III-238:12-7, III-273:14-17.)

23 Plaintiffs proceeded to trial against the county social workers, arguing the social
24 workers violated their Fourth and Fourteenth Amendment rights by removing C.L. and
25 B.L. from their home without a warrant. Plaintiffs also claimed Defendant County of San
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27 ¹ For purposes of convenience, citations to the trial record will be according to the Volume Number.
28 Citations will be of the format Vol-Page:Line. For example, II-111:25 is a citation to the Second
Volume, page 111, line 25. The volumes are located at ECF Document Nos. 210-214.

1 Diego (the “County”) was liable under Monell v. New York City Department of Social
2 Services, 436 U.S. 658 (1978). Defendants maintained that there had been no constitutional
3 violation because the children were in imminent risk of serious bodily harm, there was
4 insufficient time to seek a warrant, and there were no less restrictive alternatives.

5 The case proceeded to a jury trial on March 14, 2017. (Doc. Nos. 180, 187, 191.) At
6 the end of trial, the jury rendered a verdict in favor of individual defendants Quinteros,
7 Baxter, and Jemison. (Doc. No. 201, “Special Verdict Form 1.”) On Special Verdict Form
8 1, the jury found that Baxter’s and Quinteros’s actions in removing Plaintiffs C.L. and B.L.
9 were not unreasonable and, thus, they had not violated Plaintiffs’ Fourth or Fourteenth
10 Amendment rights. (Id. Qs. 1, 7, 14.) The jury concluded that Jemison’s actions constituted
11 an unreasonable interference with Plaintiffs’ rights of familial custody and companionship
12 under the Fourteenth Amendment, but that Jemison had not acted with deliberate
13 indifference. (Id. Qs. 7, 8.) The jury also concluded that Jemison’s actions were intentional
14 and unreasonable under the Fourth Amendment but were not the legal cause of Plaintiffs’
15 injuries. (Id. Qs. 1, 2.)

16 The Court instructed the jury to “[c]omplete Special Verdict Form 2 only if you
17 found a violation of the Fourth and/or Fourteenth Amendment claim against a defendant in
18 Special Verdict Form 1.” (Doc. No. 202, “Special Verdict Form 2”; IV-210:1-7.) Despite
19 the Court’s instruction to only complete Special Verdict Form 2 if they found a
20 constitutional violation by an individual defendant, the jury proceeded to complete Special
21 Verdict Form 2. (Id.) The jury found that the individual Defendants had acted pursuant to
22 an expressly adopted official policy or longstanding practice or custom of the County, but
23 found such policy, practice, or custom was not the moving force that caused Plaintiffs’
24 injury. (Id. Qs. 1, 2.) Next, the jury found that Defendant County of San Diego had failed
25 to adequately train its social workers to prevent violations of the Constitution when
26 handling usual and recurring situations. (Id. Q. 3.) The jury also concluded the County had
27 been deliberately indifferent to the known or obvious consequences of its failure to train
28 social workers, (id. Q. 4), and that this failure to train was so closely related to the

deprivation of a plaintiff's rights as to be the moving force that caused the injury, (id. Q. 5). The jury awarded nominal damages in the amount of \$1 per Plaintiff. (Id. Q. 7.)

Following the judgment, the parties filed various post-trial motions attacking the jury's verdict. (Doc. Nos. 215, 218, 219, 225, 229, 230, 240.) On August 18, 2017, the Court denied the parties' motions and affirmed judgment against the County. (Doc. No. 243.) The Court determined that Defendant Jemison was the legal cause of the violation of C.L. and B.L.'s Fourth Amendment rights but that Jemison was entitled to qualified immunity because those rights were not clearly established at the time. (Doc. No. 243.) Because there was a constitutional violation, the Court affirmed the jury's verdict against the County as to Plaintiffs C.L. and B.L. (Id.) However, because there was no Fourteenth Amendment violation, the Court struck the jury's verdict against the County as to Plaintiffs Lewis and Taylor. Accordingly, the Court amended the previous Judgment. (Doc. Nos. 204, 245.) The Court entered judgment in favor of Defendants Baxter, Quinteros, and Jemison on all causes of action. (Doc. No. 245.) The Court entered judgment in favor of Defendant County of San Diego as to all claims by Plaintiffs Lewis and Taylor. (Id.) The Court entered judgment in favor of Plaintiffs C.L. and B.L. as to their claims against Defendant County of San Diego and awarded C.L. and B.L. each \$1 in nominal damages, payable by the County of San Diego, as well as costs and fees as allowed by law. (Id.)

DISCUSSION

I. Motion for Attorneys' Fees Pursuant to 42 U.S.C. § 1988.

Although “[o]ur legal system generally requires each party to bear [its] own litigation expenses,” 42 U.S.C. § 1988(b) authorizes district courts to award a “reasonable attorney’s fee” as costs of suit to the “prevailing party” in 42 U.S.C. § 1983 actions. Fox v. Vice, 563 U.S. 826, 832-33 (2011). A prevailing plaintiff may also recover reasonable paralegal fees incurred during the course of litigation. See Missouri v. Jenkins, 491 U.S. 274, 287-88 (1989); Woods v. Carey, 722 F.3d 1177, 1179 n.1 (9th Cir. 2013). In § 1983 actions, a prevailing plaintiff “serves as a private attorney general, vindicating a policy that Congress considered of the highest priority” and, therefore, “should ordinarily recover an

1 attorney's fee from the defendant—the party whose misconduct created the need for legal
2 action.” Fox, 563 U.S. at 833 (internal quotation marks and citations omitted).

3 A plaintiff that wins only nominal damages constitutes a “prevailing party” for
4 purposes of § 1988. Klein v. City of Laguna Beach, 810 F.3d 693, 698 (9th Cir. 2016)
5 (citing Farrar v. Hobby, 506 U.S. 103, 112 (1992)). But “[i]f a district court chooses to
6 award fees after a judgment for only nominal damages, it must point to some way in which
7 the litigation succeeded, *in addition* to obtaining a judgment for nominal damage.”
8 Mahach-Watkins v. Depee, 593 F.3d 1054, 1059 (9th Cir. 2010) (quoting Wilcox v. City
9 of Reno, 42 F.3d 550, 555 (9th Cir. 1994)); see also Maria J. Morales v. Sonya Fry, 873
10 F.3d 817, 827 (9th Cir. 2017). Here, Plaintiffs are the “prevailing party” for purposes of
11 § 1988 because the jury awarded nominal damages. See id. Therefore, in ruling on
12 Plaintiffs’ motion for attorneys’ fees, the Court must first determine whether Plaintiffs are
13 entitled to the requested fees at all, which turns on whether the litigation “succeeded, *in*
14 *addition* to obtaining a judgment for nominal damage.” See Mahach-Watkins, 593 F.3d at
15 1059.

16 **A. Entitlement to Attorneys’ Fees.**

17 The Ninth Circuit has adopted the three-factor test derived from Justice O’Connor’s
18 concurrence in Farrar to determine whether a plaintiff succeeded beyond a judgment for
19 nominal damages. See Morales, 873 F.3d at 827 (citing Mahach-Watkins, 593 F.3d at
20 1059). “The three factors are: (1) the difference between the amount recovered and the
21 damages sought, which in most nominal damages cases will disfavor an award of fees; (2)
22 the significance of the legal issue on which the plaintiff claims to have prevailed; and (3)
23 whether the plaintiff accomplished some public goal.” Id. “[W]here the district court
24 properly has weighed these three factors, the resulting award of attorney’s fees is not an
25 abuse of its discretion.” Id. (quoting Mahach-Watkins, 593 F.3d at 1060). Accordingly, the
26 Court first considers the three Farrar factors. See id.

27 The Court notes that the County makes a reasonable argument that Plaintiffs are not
28 entitled to attorneys’ fees. (See Doc. No. 275 at 5-8.) Notwithstanding Plaintiffs’ limited

1 overall success, however, the jury found for the Plaintiffs on their municipal liability claim
2 and the Court upheld the verdict. (Doc. No. 245.) And having weighed the three Farrar
3 factors, below, the Court concludes that Plaintiffs are entitled to fees.

4 **1. Amount of Damages Sought and Recovered.**

5 Beginning with the first Farrar factor, the Court considers the difference between the
6 amount of damages sought and recovered. See Mahach-Watkins, 593 F.3d at 1060.

7 In final argument, Plaintiffs' counsel Robert Powell stated that he "want[ed] the
8 citizens of the County of San Diego to read something about a significant award." (IV-
9 121:20-25.) He asked the jury to award to his clients the same amount of damages requested
10 by Plaintiff Michael Lewis, which turned out to be \$1 million. (IV-122:24 -123:5; 143:18-
11 20.) Deferring to Mr. Lewis's attorney's "thought process," Mr. Powell offered the jury no
12 clear explanation or calculation for why \$1 million would be appropriate compensatory
13 damages for Plaintiffs.² (See IV-131:15-16.) And the evidence did not justify that amount;
14 in particular, the record showed that C.L. and B.L. were happy, well-adjusted children.
15 (See II-94:395:13.) Mr. Powell also requested \$30,000 in punitive damages against
16 Quinteros, Jemison, and Baxter. (IV-126:6-18.)

17 The jury returned a verdict in favor of Quinteros, Baxter, and Jemison, and against
18 the County of San Diego. (Doc. Nos. 201, 202.) The jury awarded each Plaintiff one dollar
19 in nominal damages against the County. (Doc. No. 202.) Following various post-trial
20 motions, (Doc. Nos. 215, 218, 219, 225, 229, 230, 240), the Court struck the jury's verdict
21 against the County as to Plaintiffs Lewis and Taylor but affirmed the verdict against the
22 County as to Plaintiffs C.L. and B.L, (Doc. No. 243). The Court entered an amended
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24 ² Opposing Plaintiffs' motion for attorneys' fees, the County maintains that Mr. Powell asked for at least
25 \$2 million in compensatory damages. (Doc. No. 275 at 4.) The transcript of Mr. Powell's closing
26 argument states "I'm just going to ask you to apply what [Mr. King] says to my client, for the mother of
27 these boys and for these boys." IV-123:3-5. One interpretation is that Mr. Powell asked the jury to award
28 Ms. Taylor, C.L., and B.L. \$1 million each, producing \$3 million total compensatory damages. Another
interpretation is that Mr. Powell asked for \$1 million total. At any rate, for purposes of the first Farrar
factor, the difference between the amount Plaintiffs recovered (\$2) and the low-end interpretation of the
amount requested (\$1 million), disfavors the award of fees.

1 judgment in favor of Plaintiffs C.L. and B.L. as to their claims against the County and
2 awarded C.L. and B.L. each \$1 in nominal damages payable by the County. (Doc. No. 245
3 at 2.)

4 To summarize, Plaintiffs' counsel requested at least \$1 million in compensatory
5 damages and \$30,000 in punitive damages, yet Plaintiffs C.L. and B.L. each received only
6 one dollar in nominal damages. The difference between the amount requested and received
7 here is less drastic than the difference in Farrar, where the plaintiff requested \$17 million
8 in damages and received only one dollar. 506 U.S. at 121 (denying fees). On the other
9 hand, the difference here is roughly similar to that in Romberg, where plaintiffs sought \$2
10 million in compensatory and punitive damages but received only nominal damages. See 48
11 F.3d at 454 (denying fees). Accordingly, the first Farrar factor somewhat disfavors an
12 award of attorneys' fees. See id.

13 **2. Significance of the Legal Issue on Which Plaintiffs Prevailed.**

14 Turning to the second Farrar factor, the Court "compares the significance of the legal
15 issue on which the plaintiff claims [to have] prevailed to other issues that circuit courts
16 have held to qualify as important." Morales, 873 F.3d at 827; see Mahach-Watkins, 593
17 F.3d at 1061-62. The Ninth Circuit has "repeatedly noted the relevance of this second
18 factor." Id. at 1061.

19 Here, Plaintiffs prevailed on their municipal liability claim, in which they alleged
20 that the County's failure to adequately train its social workers caused the unlawful seizure
21 of minor children. (See Doc. No. 17 ¶ 54.) The Court compares the significance of that
22 legal issue to others, such as the right to be free from an officer's use of deadly force, the
23 right to be free from discrimination in school-sponsored contact sports, the right to be free
24 from cruel and unusual punishment, and the right to be free from illegal detention. See
25 Mahach-Watkins, 593 F.3d at 1062. Particularly relevant here, the Eighth Circuit has
26 recognized the right to be free from illegal detention as significant for purposes of Farrar.
27 See Piper v. Oliver, 69 F.3d 875, 877 (8th Cir. 1995). Furthermore, this case involved
28 parents' and children's "well-elaborated constitutional right to live together without

1 governmental interference”; “[t]hat right is an essential liberty interest protected by the
2 Fourteenth Amendment’s guarantee that parents and children will not be separated by the
3 state without due process of law except in an emergency.” Wallis v. Spencer, 202 F.3d
4 1126, 1136 (9th Cir. 2000). In light of the “essential liberty interest” at issue in this case,
5 see id., as well as a sister circuit’s recognition of a closely related right, Piper, 69 F.3d at
6 877, the Court concludes that the second Farrar factor supports the award of attorneys’
7 fees.

8 **3. Whether Plaintiffs Accomplished Some Public Goal.**

9 The Court next considers the third Farrar factor: whether Plaintiffs accomplished
10 some public goal. See Mahach-Watkins, 593 F.3d at 1062. This factor may favor the award
11 of attorney’s fees where, in addition to nominal damages, the § 1983 action “achieved other
12 tangible results—such as sparking a change in policy.” See id. (quoting Wilcox, 42 F.3d at
13 555). Along the same lines, this factor may also favor the award of fees where the jury’s
14 verdict has a deterrent effect on those who establish and implement official policies
15 governing the conduct at issue. See id. at 1063 (concluding third Farrar factor favored
16 award of attorney’s fees in § 1983 action where verdict on plaintiff’s excessive force claim
17 “established a deterrent to . . . others who establish and implement official policies
18 governing arrests of citizens”).

19 Here, Plaintiffs assert that, “[a]s a result of [the] judgment [in this case], the County
20 will have to—or at least should—improve its training for social workers who handle cases
21 where encounters involving marijuana are likely.” (Doc. No. 259-1 at 2.) The County
22 disagrees and points out that Plaintiffs sought no injunctive relief in this case. (Doc. No.
23 275 at 4, 7.)

24 The County’s own conclusions about the propriety of its social-worker training are
25 not determinative as to whether Plaintiffs accomplished some public goal. See Mahach-
26 Watkins, 593 F.3d at 1062. In Mahach-Watkins, the Ninth Circuit affirmed the district
27 court’s conclusion that a § 1983 excessive force action accomplished a public goal because
28 the verdict would deter the defendant CHP officer from unconstitutional conduct and deter

1 those who create official policies governing arrests. Id. at 1062-63. CHP’s “exoneration”
2 of the officer did not render his conduct lawful, id. at 1062, nor did “CHP’s stated choice
3 to ignore [the] deterrent . . . minimize the importance of the case to others” who create
4 official policies governing arrests, id. at 1063.

5 Similarly, here, the jury’s verdict that the County failed to adequately train its social
6 workers to prevent constitutional violations has a deterrent effect, and accordingly, the
7 Plaintiffs accomplished a public goal to satisfy the third Farrar factor. See id.

8 **4. Conclusion.**

9 Having weighed the three Farrar factors, the Court concludes that Plaintiffs are
10 entitled to an award of reasonable attorneys’ fees.

11 **B. Determination of a Reasonable Attorney’s Fee.**

12 To determine the amount of a reasonable fee under § 1988, district courts generally
13 perform a two-step analysis. See Gonzalez v. City of Maywood, 729 F.3d 1196, 1202 (9th
14 Cir. 2013); Klein, 810 F.3d at 698. First, courts use the “lodestar method to determine what
15 constitutes a reasonable attorney’s fee.” Gonzalez, 729 F.3d at 1202 (internal quotation
16 marks and citations omitted). Second, the court may adjust the lodestar based on the twelve
17 “Kerr factors.” Id. at 1209 & n.11.³ If the court has taken into account any of the Kerr
18 factors when calculating the lodestar at step one, then the court should not again adjust the
19 lodestar at step two based on the same factors. See id. at 1209 n.11 (citing Morales, 96 F.3d
20 at 364 n.9). Indeed, it is presumed that the court accounts for certain Kerr factors in its

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23 ³ The twelve Kerr factors bearing on reasonableness are:

- 24 (1) the time and labor required, (2) the novelty and difficulty of the questions involved, (3) the
25 skill requisite to perform the legal service properly, (4) the preclusion of other employment by
26 the attorney due to acceptance of the case, (5) the customary fee, (6) whether the fee is fixed or
27 contingent, (7) time limitations imposed by the client or the circumstances, (8) the amount
28 involved and the results obtained, (9) the experience, reputation, and ability of the attorneys, (10)
the “undesirability” of the case, (11) the nature and length of the professional relationship with
the client, and (12) awards in similar cases.

Morales v. City of San Rafael, 96 F.3d 359, 363 n.8 (9th Cir. 1996).

1 lodestar calculation at step one: specifically, “(1) the novelty and complexity of the issues,
2 (2) the special skill and experience of counsel, (3) the quality of representation, (4) the
3 results obtained, and (5) the contingent nature of the fee agreement.” Id. (quoting Morales,
4 96 F.3d at 363).

5 The moving party “has an initial burden of production, under which it must produce
6 satisfactory evidence establishing the reasonableness of the requested fee.” United States
7 v. \$28,000.00 in U.S. Currency, 802 F.3d 1100, 1105 (9th Cir. 2015) (internal quotation
8 marks and citations omitted). If the moving party carries its burden, then the court makes
9 a factual determination as to the requested fee’s reasonableness, which usually “involve[s]
10 considering both the proponent’s evidence and evidence submitted by the fee opponent
11 challenging the accuracy and reasonableness of the facts asserted by the prevailing party.”
12 Id. (internal quotation marks and citation omitted).

13 **1. Computation of the Lodestar.**

14 “Under the lodestar method, the district court ‘multiplies the number of hours the
15 prevailing party reasonably expended on the litigation by a reasonable hourly rate.’”
16 Gonzalez, 729 F.3d at 1202 (quoting Ballen v. City of Redmond, 466 F.3d 736, 746 (9th
17 Cir. 2006)). The resulting “lodestar figure” is a “presumptively reasonable” § 1988 fee
18 award. Id. When computing the lodestar, the Court considers “(1) the novelty and
19 complexity of the issues, (2) the special skill and experience of counsel, (3) the quality of
20 representation, (4) the results obtained, and (5) the contingent nature of the fee agreement.”
21 Id. at 1209 n.11 (quoting Morales, 96 F.3d at 364 n.9).

22 **a. Reasonable Number of Hours.**

23 A “reasonable” number of hours equals “[t]he number of hours . . . [which] could
24 reasonably have been billed to a private client.” Gonzalez, 729 F.3d at 1202 (quoting
25 Moreno v. City of Sacramento, 534 F.3d 1106, 1111 (9th Cir. 2008)). “The prevailing party
26 has the burden of submitting billing records to establish that the number of hours it has
27 requested are reasonable.” Id. If the prevailing party’s submitted billing records “include
28 hours that could not reasonably be billed to a private client and, therefore, are not properly

1 included in a § 1988 fee award,” the Court should exclude such hours, using either an
2 “hour-by-hour analysis of the fee request” or “across-the-board percentage cuts in the
3 number of hours claimed or in the final lodestar figure.” Id. at 1203 (internal quotation
4 marks and citations omitted).

5 Plaintiffs seek compensation for the hours billed by four attorneys and two
6 paralegals.⁴ (See Doc. No. 259-1 at 8.) Opposing the motion, the County maintains that
7 Plaintiffs should not receive fees for work on unsuccessful causes of action and motions,
8 for unreasonable or unnecessary time, or for clerical tasks and travel time. (Doc. No. 275
9 at 15-24.) The County also takes issue with Plaintiffs’ block billing and “vague and
10 severely redacted entries.” (Id. at 20.) The Court will address each argument in turn.

11 First, the Court has discretion to reduce a fee award based on a plaintiff’s limited
12 success. Sorenson v. Mink, 239 F.3d 1140, 1147 (9th Cir. 2001) (citing Hensley v.
13 Eckerhart, 461 U.S. 424, 436-37 (1983)). Under Hensley’s two-step process for analyzing
14 a deduction for limited success, the Court first considers whether “the plaintiff fail[ed] to
15 prevail on claims that were unrelated to the claims on which he succeeded.” 461 U.S. at
16 434. “Claims are unrelated if they are entirely distinct and separate from the claims on
17 which the plaintiff prevailed.” Sorenson, 239 F.3d at 1147 (internal quotation marks and
18 citation omitted.) Second, the Court considers whether “the plaintiff achieve[d] a level of
19 success that makes the hours reasonably expended a satisfactory basis for making a fee
20 award.” Hensley, 461 U.S. at 434. “In answering that question, a district court ‘should
21 focus on the significance of the overall relief obtained by the plaintiff in relation to the
22 hours reasonably expended on the litigation.’” Sorenson, 239 F.3d at 1147 (quoting
23 Hensley, 461 U.S. at 435). A plaintiff should recover a “fully compensatory fee” where she
24 has achieved “excellent results.” Id.

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27 ⁴ In response to the County’s objection regarding “transient timekeepers,” (Doc. No. 275-9 ¶ 119-22),
28 Plaintiffs voluntarily removed from their fee request all billings by attorneys Brett O. Terry and Brody
A. McBride. (Doc. No. 277-1 ¶ 11.) Accordingly, the Court disregards Mr. Terry’s and Mr. McBride’s
billing records and does not include either attorney’s time in the fee award.

1 Here, the County contends that Plaintiffs should not receive fees for time spent on
2 claims against the social workers involved in the post-removal juvenile dependency case
3 (individual defendants Joseph, Guardado, Torres, and Guild).⁵ (Doc. No. 275 at 17.)
4 Moreover, the County's expert opines that the Court should deduct the time Plaintiffs spent
5 on their unsuccessful summary adjudication motion and on their opposition to Defendants'
6 summary judgment motion. (Doc. No. 275-9 ¶¶ 148-49.)

7 The Court declines to deduct the time Plaintiffs spent on their summary adjudication
8 motion, which involved Plaintiffs' warrantless removal claim against social worker
9 defendants Baxter, Quinteros, and Jemison, (Doc. No. 84); that claim and the municipal
10 liability claim on which Plaintiffs prevailed at trial "involve[d] a common core of facts"
11 and similar legal theories and were, thus, related. McCown v. City of Fontana, 565 F.3d
12 1097, 1103 (9th Cir. 2009) (citing Hensley, 461 U.S. at 435); see Sorenson, 239 F.3d at
13 1147. Plaintiffs voluntarily reduced by half their time spent opposing Defendants'
14 summary judgment motion; Plaintiffs intend this reduction "to account for the dismissal of
15 Defendants Joseph, Guardado, Torres, and Guild." (Doc. No. 277-1 ¶ 19.) The Court finds
16 this reduction reasonable and concludes that it adequately accounts for Plaintiffs' lack of
17 success against Defendants Joseph, Guardado, Torres, and Guild.

18 The County also argues that Plaintiffs should not receive full compensation for time
19 spent opposing the County's request to take seven individual defendants' depositions at the
20 County Administration Building or for time spent preparing "excessive" motions in limine.
21 (Doc. No. 275 at 17-18.) The Court agrees that this time was not "reasonably expended"
22 and warrants reduction. Regarding the deposition-location dispute, the Magistrate Judge
23 found that Plaintiffs had identified no reason why the Defendants' preferred location was
24 inadequate. (Doc. No. 67 at 3.) Accordingly, the Court deducts all of the time Plaintiffs
25 spent opposing the County's request. See Hensley, 461 U.S. at 433-34 ("Counsel for the
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27 ⁵ Defendants Joseph, Guardado, Torres, and Guild had no involvement in the warrantless removal of
28 B.L. and C.L. from their parents' home, but rather became involved in the case after the Juvenile Court
placed the children under the state's protection. (Doc. No. 159 at 9.)

1 prevailing party should make a good-faith effort to exclude from a fee request hours that
2 are excessive, redundant, or otherwise unnecessary”). As for the motions in limine,
3 the Court specified that each side could file a maximum of five motions, absent further
4 order of the Court, (Doc. Nos. 107, 118), but Plaintiffs filed a total of ten, (Doc. No. 134).
5 Mr. Powell explains “this was due to a misinterpretation” of the Court’s instructions and
6 was “not in bad faith.” (Doc. No. 277-1 ¶ 22.) Plaintiffs have voluntarily deducted all time
7 spent on motions in limine prior to the Court’s order striking Plaintiffs’ excessive motions.
8 (Id. ¶ 23.) The Court finds that the remaining time Plaintiffs spent on the motions in limine
9 was reasonable and makes no further reduction on that basis.⁶

10 Additionally, Plaintiffs assert that Defendants should not recover fees for time spent
11 on clerical tasks or on travel. (Doc. No. 275 at 21-24.) A fee award should not include time
12 spent on clerical matters, whether billed at an attorney’s or paralegal’s hourly rate. Davis
13 v. City & County of San Francisco, 976 F.2d 1536, 1543 (9th Cir. 1992) (citing Missouri
14 v. Jenkins, 491 U.S. 274, 288 n.10 (1989)), vacated on other grounds, 984 F.2d 345 (9th
15 Cir. 1993). Clerical tasks include, for example, copying and filing documents, Ramirez v.
16 Escondido Unified Sch. Dist., No. 11-CV-1823, 2014 WL 12675859, at *5 (S.D. Cal. Apr.
17 17, 2014), calendaring deadlines, drafting subpoenas, and preparing instructions for
18 service, Miller v. Schmitz, No. 12-CV-137, 2017 WL 633892, at *6-7 (E.D. Cal. Feb. 15,
19 2017) (citations omitted).

20 As an initial matter, Plaintiffs have voluntarily deducted all but two of the specific
21 time entries by Mr. Powell, Ms. Marinho, and Ms. Covill that the County argued were
22 clerical. (Doc. No. 277-1 ¶ 13.) The Court finds the remaining two entries that the County
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24 ⁶ The County also argues that Plaintiffs should not receive fees for time spent requesting to amend the
25 first amended complaint. (Doc. No. 275 at 17.) In their reply brief, Plaintiffs agreed to deduct that time
26 in its entirety because the proposed claims were “distinct and separate from the claims” in the first
27 amended complaint. (Doc. No. 277 at 10.) The Court agrees this deduction is appropriate and deducts
28 Plaintiffs’ time spent on the motion for leave to amend. (See Doc. No. 63 at 2 (denying motion for leave
to amend because Plaintiffs’ proposed new claims were “separate from the ones in the present
complaint, as they involve medical examinations and different transactions that would unduly
complicate” the case).) Sorenson, 239 F.3d at 1147.

1 challenged—one by Mr. Powell involving his review of a deposition video and one by Ms.
2 Covill involving preparations for the pretrial hearing and preparation of exhibits and
3 deposition transcripts—are non-clerical and thus reasonably included in the fee request.
4 (Id.) The Court finds that the remainder of Mr. Powell’s, Ms. Marinho’s and Ms. Covill’s
5 time is non-clerical and does not warrant further reduction on that basis.

6 Next, the County contends that all of Ms. Liu’s time was clerical and should be
7 excluded. (Doc. No. 275-9 at 34-40.) The County’s objection is overbroad, but the Court
8 has nonetheless given careful consideration to striking certain clerical tasks that remain in
9 Ms. Liu’s revised billing records. See Nadarajah v. Holder, 569 F.3d 906, 921 (9th Cir.
10 2009) (“When clerical tasks are billed at hourly rates, the court should reduce the hours
11 requested to account for the billing errors.”). These clerical tasks include calendaring
12 deadlines, (Doc. No. 277-3 Ex. O at 1 (“5/25/2016 . . . Tasked deadline to object.”)), and
13 preparing proofs of service, (see, e.g., id. Ex. O at 7 (“9/29/2017 Draft proposed
14 order/POS.”)). But having reviewed the entirety of Ms. Liu’s revised billing records, from
15 which, the Court notes, Ms. Liu already made deductions for clerical tasks, (id. ¶ 5), the
16 Court concludes that the clerical entries are not numerous enough to warrant deduction.
17 Moreover, Ms. Liu assisted Plaintiffs’ preparation and prosecution of the case, and her non-
18 clerical time was reasonably included in the fee request.

19 Regarding time spent on travel, the Court may award reasonable travel expenses that
20 would “normally [be] billed to fee-paying clients.” Davis v. Madison County, 927 F.2d
21 1473, 1487 (9th Cir. 1991); see also Chalmers v. City of Los Angeles, 796 F.2d 1205, 1216
22 n.7 (9th Cir. 1986). Here, the County argues that Plaintiffs’ travel time is unreasonable
23 because “Plaintiffs have failed to show that it was necessary to use an attorney who lives
24 and works over 400 miles away [from San Diego], rather than local counsel.” (Doc. No.
25 275 at 23.) However, it is not per se unreasonable for a plaintiff to use out-of-town counsel
26 when a local attorney might also be available; “[i]f the travel time was reasonably
27 expended, the travel costs should also be recoverable.” Johnson v. Credit Int’l, Inc., 257 F.
28 App’x 8, 10 (9th Cir. 2007) (mem.) (citing Chalmers, 796 F.2d at 1216 n.7); see Thalheimer

1 v. City of San Diego, No. 9-CV-2862, 2012 WL 1463635, at *4 (S.D. Cal. Apr. 26, 2012)
2 (awarding reasonable travel expenses for out-of-town counsel specializing in First
3 Amendment law despite possible existence of local qualified counsel). Plaintiffs have
4 presented evidence of the “specialized, niche area of the law” in which Mr. Powell
5 practices, as well as of his expertise. (Doc. No. 259-2 ¶ 11; see Doc. Nos. 259-18 ¶ 9, 259-
6 20 ¶ 14.) Exercising its “broad discretion to award reasonable travel fees and travel
7 expenses,” the Court concludes Plaintiffs have demonstrated the reasonableness of the time
8 spent on travel. Nader v. Bennett, 407 F. App’x 190, 191 (9th Cir. 2010) (mem.).

9 Finally, the County contends that the Court should deduct 50% of redacted entries
10 in Plaintiffs’ billing records because it is difficult to determine whether those entries “are
11 related to successful or unsuccessful claims, or whether the tasks being performed are
12 reasonable, excessive, or clerical in nature.” (Doc. No. 275 at 21.) Having reviewed the
13 billing records, the Court concludes that such a deduction is unwarranted. The County fails
14 to identify specific entries, and instead generally objects that Plaintiffs’ records contain
15 block billing. (Doc. No. 275 at 20.) The Court would have preferred fewer block-billed
16 entries in Plaintiffs’ records. (See, e.g., Doc. No. 722-2 (“Robert Powell Revised Billing”)
17 (billing entries on 9/12/2016, 11/4/2016, 2/2/2017, 3/10-3/17/2017).) But having reviewed
18 all of the billing records, the Court concludes that the instances of block-billing are not
19 significant enough to warrant a general reduction in fees or deduction of specific block-
20 billed entries. See Welch v. Metro. Life Ins. Co., 480 F.3d 942, 948 (9th Cir. 2007).

21 To summarize, the Court adopts the deductions that Plaintiffs voluntarily made to
22 their own billing records, specifically: (1) all of the time spent on this case by attorneys
23 Terry and McBride; (2) one-half of the total time Plaintiffs spent opposing Defendants’
24 summary judgment motion; (3) all of the time Plaintiffs spent on motions in limine prior
25 to the Court’s order striking the excessive motions; (4) all of the time Plaintiffs spent
26 requesting to amend the first amended complaint; and (5) all of the sixteen time entries that
27 Plaintiffs’ expert identified as clerical, except for Mr. Powell’s entry dated 1/10/2017 (“Get
28 computer set up to play Lewis video deposition . . .”), totaling 2 hours, and Ms. Covill’s

1 entry dated 3/10/2017 (“Prepare for and attend pretrial hearing”), totaling 4.5 hours,
2 both of which entries are reasonably included, (see Doc. No. 275-9 ¶ 137). The Court also
3 deducts all of the time Plaintiffs spent opposing the defense’s request to take seven
4 individual defendants’ depositions at the County Administration Building. The Court
5 concludes that the remaining time entries in Plaintiffs’ billing records are reasonably
6 included in their fee request.

7 **b. Reasonable Hourly Rate.**

8 Having computed a reasonable number of hours, the Court now “must determine a
9 reasonable hourly rate to use for attorneys and paralegals in computing the lodestar
10 amount.” Gonzalez, 729 F.3d at 1205. The prevailing market rates in the forum in which
11 the district court sits set the reasonable hourly rate. Id. (internal quotation marks and
12 citation omitted). Within this geographic community, the district court should consider “the
13 experience, skill, and reputation of the attorney or [paralegal].” Id. at 1205-06 (citation
14 omitted). The fee applicant must produce “satisfactory evidence, in addition to the
15 affidavits of its counsel, that the requested rates are in line with those prevailing in the
16 community for similar services of lawyers of reasonably comparable skill and reputation.”
17 Jordan v. Multnomah County, 815 F.2d 1258, 1263 (9th Cir. 1987). As evidence of
18 prevailing market rates, the Court considers all of the information in the record, including
19 affidavits by the fee applicant’s attorneys and other attorneys regarding prevailing market
20 rates, as well as rate determinations in other cases, “particularly those setting a rate for the
21 [fee applicant’s] attorney.” See United Steelworkers of Am. v. Phelps Dodge Corp., 896
22 F.2d 403, 407 (9th Cir. 1990).

23 **i. Attorneys’ Hourly Rates.**

24 *Robert Powell*

25 Mr. Powell requests an hourly rate of \$700, which the County argues is unreasonably
26 high. (Doc. Nos. 259-2 ¶ 26, 275 at 8.) To support his requested hourly rate, Mr. Powell
27 cites two of his prior awards. (Doc. No. 259-2 ¶¶ 27, 28.) First, in a 2013 Northern District
28 of California case, Mr. Powell received \$500 per hour pursuant to an unopposed fee award.

1 Watson v. County of Santa Clara, No. C-06-4029, 2013 WL 5303777, at *3 (N.D. Cal.
2 Sept. 20, 2013). Second, in a 2012 Eastern District case, Mr. Powell received slightly more
3 than \$700 per hour pursuant to a settlement, but the court there noted that \$700 per hour
4 was twice “the high-end central California hourly fee” of \$350 and “would provide a very
5 substantial bonus for taking the risk of failure and for counsels’ special expertise.” McCue
6 v. South Fork Union Sch. Dist., No. 10-CV-233, 2012 WL 2995666, at *7 (E.D. Cal. July
7 23, 2012).

8 In addition, Mr. Powell submits declarations by two civil rights attorneys: Paul W.
9 Leehey and Carol A. Sobel. (See Doc. Nos. 259-20, 259-22.) Mr. Leehey, a San Diego-
10 based attorney who has prosecuted civil rights cases for approximately 26 years, states that
11 Mr. Powell’s requested rate is “at or below the prevailing market rate for attorneys
12 providing comparable legal services in San Diego.” (Doc. No. 259-20 ¶ 16.) Mr. Leehey
13 bases his opinion on his knowledge of Mr. Powell’s “skill, reputation, and experience, as
14 well as the difficulty in litigating the complex legal issues in these types of civil right
15 cases.” (*Id.*) Mr. Leehey also cites a \$585-per-hour award his co-counsel received in
16 Orange County Superior Court in 2010. (*Id.* ¶ 17 & Ex. K.) Mr. Leehey focuses on civil
17 rights cases involving the child dependency system and has been co-counsel with Mr.
18 Powell several times. (*Id.* ¶¶ 9, 14.) Mr. Leehey further states that, in his practice, he
19 requests \$750 per hour, but he gives no indication that he has received that rate. (*Id.* ¶ 17.)

20 Ms. Sobel, who has practiced civil rights litigation for more than 30 years, owns her
21 own practice in Los Angeles. (Doc. No. 259-22 ¶¶ 2, 5.) The County objects to Ms. Sobel’s
22 declaration as lacking foundation, asserting that “Ms. Sobel works in Los Angeles, not San
23 Diego,” and that she does not appear to have submitted fee requests and fee declarations in
24 any Southern District cases. (Doc. No. 275 at 10.) Nevertheless, Ms. Sobel opines that \$700
25 per hour “is well below rates sought and approved in the past for attorneys in the Southern
26 District practicing less time than Mr. Powell.” (Doc. No. 259-22 ¶ 18.)

27 Ms. Sobel highlights two Southern District cases, both of which were class actions.
28 (*Id.* ¶¶ 18-19.) In the first, an anti-SLAPP litigation from 2015, the Court awarded law firm

1 partners hourly rates ranging from \$600 to \$825 and associates hourly rates from \$250 to
2 \$440. Makaeff v. Trump Univ., LLC, No. 10-CV-940, 2015 WL 1579000, at *5 (S.D. Cal.
3 Apr. 9, 2015) (finding those rates were consistent with rates in the “National Law Journal
4 survey, with those previously approved by this Court and in this District in class action
5 settlements, and with this Court’s familiarity of the rates charged in the San Diego
6 community.”). And in the second class action Ms. Sobel cites, a Telephone Consumer
7 Protection Act case from 2016, the Court approved the award of 25% of the gross
8 settlement for attorneys’ fees. Franklin v. Wells Fargo Bank, N.A., No. 14-CV-2349, 2016
9 WL 402249, at *6 (S.D. Cal. Jan. 29, 2016). In that case, class counsel reported hourly
10 rates of \$575 and \$800 for two law firm partners, (Doc. No. 259-22, Ex. 8 at 18), but the
11 court did not explicitly approve those rates or any others. See 2016 WL 402249, at *6.
12 Finally, Ms. Sobel compiled a list of hourly rates requested in several Southern District
13 cases and one Central District case and identified each requesting attorney’s years of
14 experience. (Doc. No. 259-22 ¶ 13.) Her survey is not particularly helpful in determining
15 whether the listed attorneys are of “comparable skill, experience and reputation” as Mr.
16 Powell, or whether the rates requested were in fact granted. See Gonzalez, 729 F.3d at 1208
17 (citation omitted).

18 The Court also considers the County’s evidence challenging the reasonableness of
19 Mr. Powell’s requested hourly rate. See U.S. Currency, 802 F.3d at 1105. Citing several
20 Southern District fee awards, a *National Law Journal* annual survey, and its own expert,
21 the County contends that \$500 is a reasonable hourly rate for Mr. Powell.⁷ (Doc. No. 275
22 at 12-13.) The 2013 *National Law Journal* survey indicates that the average billing rates
23 for partners and associates in the three firms closest to San Diego included in the survey
24 were \$500 for partners and \$315 for associates. (Id. at 14.) The County’s expert, who has
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27 ⁷ The County also cites the *Laffey Matrix*, but the Court declines to consult this source because courts in
28 this Circuit do not find it persuasive evidence of prevailing market rates for similar work. Ruiz v. XPO
Last Mile, Inc., No. 5-CV-2125, 2017 WL 1421996, at * 4 n.1 (S.D. Cal. Apr. 20, 2017) (citations
omitted).

1 conducted roughly 2,000 legal fee audits throughout the country over the past 23 years,
2 states that \$500 is a reasonable hourly rate for Mr. Powell. (Doc. No. 275-9 ¶¶ 5, 113-14.)
3 He also cites an international child custody case in the Southern District in which the court
4 awarded \$450 per hour to a 1996 bar admittee who practiced at a mid-sized firm. (*Id.* ¶ 113
5 (citing Albani v. Albani, No. 15-CV-1980, 2016 WL 3074407, at *2 (S.D. Cal. May 31,
6 2016)).)

7 Having carefully considered the parties' evidence and the circumstances of this case,
8 and having reviewed prior awards in this District, the Court determines that \$600 is a
9 reasonable hourly rate for Mr. Powell. *See Moreno v. City of Sacramento*, 534 F.3d 1106,
10 1115 (9th Cir. 2008) ("District judges can certainly consider the fees awarded by other
11 judges in the same locality in similar cases."). In this District, "only the most skilled [civil
12 rights] counsel earn \$600 or more per hour." *Ramirez*, 2014 WL 12675859, at *3. Even
13 attorneys with significant civil rights expertise have been awarded hourly rates of less than
14 \$600 per hour. *See, e.g., Langer v. GTAC, Inc.*, No. 14-CV-1071, 2015 WL 3492475, at
15 *3 (S.D. Cal. June 3, 2015) (awarding \$425 per hour to disability-rights attorney with 21
16 years of experience); *Ramirez*, 2014 WL 12675859, at *2-3 (awarding \$500 per hour to
17 plaintiff-side attorney with 21 years of experience and \$600 per hour to civil rights attorney
18 with 34 years of experience). Indeed, a preeminent civil rights attorney in San Diego,
19 Michael R. Marrinan, opined in a different fee application that the prevailing market rate
20 in San Diego for attorneys with 25 years of experience is \$550 per hour. (*See* Doc. No. 281
21 Ex. A.)

22 The Court recognizes Mr. Powell's education and experience with civil rights law.
23 He was admitted to the California Bar in 1992 and has prosecuted civil rights cases for
24 approximately nineteen years. (Doc. No. 259-2 ¶¶ 3-4.) He is one of few attorneys in
25 California practicing juvenile dependency civil rights law, (Doc. Nos. *id.* ¶ 11, 259-18 ¶¶
26 9-10, 259-20 ¶¶ 13-15), and he represented Plaintiffs as the lead attorney on a contingency
27 basis, (Doc. No. 259-2 ¶ 32). The results of this case, however, disfavor the award of an
28 hourly rate as high as Mr. Powell requests. *See Gonzalez*, 729 F.3d at 1209 (holding district

1 courts may determine hourly rate based on the quality of results obtained). Plaintiffs’ case
2 involved a variety of claims, ranging from state law torts to constitutional violations, (Doc.
3 No. 17), but Plaintiffs ultimately prevailed on only one claim and received only nominal
4 damages despite asking for over \$1 million in compensatory and punitive damages, (Doc.
5 No. 245). Furthermore, Plaintiffs do not identify any case in which this Court awarded Mr.
6 Powell fees at the requested rate of \$700. See United Steelworkers, 896 F.2d at 407. And
7 more generally, Plaintiffs do not identify a case in which this Court, or any other court,
8 awarded \$700 per hour for “similar services of lawyers of reasonably comparable skill and
9 reputation.” See Jordan, 815 F.2d at 1263. In sum, Plaintiffs have not established the
10 reasonableness of \$700 per hour for Mr. Powell. Based on its review of prior awards in this
11 District, the parties’ evidence, and the results of this case, the Court finds that Mr. Powell’s
12 reasonable hourly rate is \$600.

13 *Sarah Marinho*

14 Ms. Marinho requests \$350 per hour, but the Court finds that a reasonable hourly
15 rate for her is \$250. Admitted to the California Bar in 2013, Ms. Marinho joined Mr.
16 Powell’s practice in March 2016 and assisted in this case by conducting legal research and
17 factual investigations, drafting motion briefs, and attending depositions. (Doc. No. 259-6
18 ¶¶ 3, 5, 6.) She was also second chair at trial. (Id. ¶ 6.)

19 While Plaintiffs’ experts opine that Ms. Marinho’s requested rate is reasonable, (see
20 Doc. Nos. 259-20 ¶ 18, 259-22 ¶ 26), the County’s expert recommends an hourly rate of
21 \$250, (Doc. No. 275-9 ¶ 114). As the County’s expert points out, (Doc. No. 275-9 ¶ 80),
22 Ms. Marinho does not cite any prior awards she or other attorneys have received at \$350
23 an hour—or at any other rate, for that matter, (see Doc. No. 259-6). Rather, Ms. Marinho
24 simply states that she “billed at a rate of \$350 per hour in this case, a rate [she] submit[s]
25 is appropriate based on the rates charged by attorneys of similar experience and
26 background” in San Diego. (Id. ¶ 9.) Plaintiffs’ expert Ms. Sobel does cite two prior
27 Southern District awards in her brief discussion of Ms. Marinho’s rate. (Doc. No. 259-22
28 ¶ 26 (citing Makaeff, 2015 WL 1579000; Medina v. Metro. Interpreters & Translators, Inc.,

1 139 F. Supp. 3d 1170, 1179 (S.D. Cal. 2015) (awarding \$295 per hour to civil rights
2 attorney with 3 years of experience in Employee Polygraph Protection Act case)).)

3 Having considered Ms. Marinho's experience, her involvement in this case, and the
4 experts' opinions, the Court finds that \$250 is a reasonable hourly rate.

5 *Gerald Singleton and Shawn McMillan*

6 Mr. Singleton and Mr. McMillan request hourly rates of \$650 and \$700,
7 respectively. (Doc. Nos. 259-12 ¶ 5, 259-18 ¶ 14.) They were both admitted to the
8 California Bar in 2000. (Doc. Nos. 259-12 ¶ 6, 259-18 ¶ 3.) Given the nature of Mr.
9 Singleton's and Mr. McMillan's involvement in this case, however, the Court concludes
10 that a reasonable hourly rate for both attorneys is \$450. Their work on this case was limited
11 and does not merit an hourly fee as high as requested. Van Gerwen v. Guarantee Mut. Life
12 Co., 214 F.3d 1041, 1046 (9th Cir. 2000). During their representation of Plaintiffs and
13 Michael Taylor—that is, prior to Mr. Powell's substitution into this case—Mr. Singleton
14 and Mr. McMillan performed limited tasks. They drafted and amended the complaint,
15 unsuccessfully opposed several motions to dismiss, and engaged in unsuccessful settlement
16 negotiations. (Doc. Nos. 259-12 ¶ 10, 259-18 ¶ 12.) After Mr. Powell substituted into the
17 case, substantial litigation followed.

18 The prior awards Mr. Singleton and Mr. McMillan cite in their declarations do not
19 persuade the Court that the rates they request (\$650 and \$700 per hour, respectively) are
20 reasonable here. Mr. Singleton received \$650 per hour pursuant to a Rule 68 offer and a
21 joint motion for attorneys' fees, (Doc. No. 259-12 Ex. F (citing Jennings v. City of San
22 Diego, No. 13-CV-322 (S.D. Cal. Jan. 6, 2014) (Doc. No. 44))), and received the same rate
23 in a later case after winning an anti-SLAPP motion, (id. Ex. G (citing San Diego Puppy,
24 Inc. v. San Diego Animal Def. Team, No. 13-CV-2783 (S.D. Cal. Mar. 17, 2016) (Doc.
25 Nos. 73, 110))). Mr. McMillan cites awards he received in out-of-District cases that are,
26 likewise, inapposite and do not substantiate his claim that \$700 per hour is reasonable for
27 his work here. (See Doc. No. 259-18 ¶¶ 15-17.) In sum, based on Mr. Singleton's and Mr.
28 McMillan's limited involvement and the preliminary nature of their work in this case, the

1 Court concludes that a reasonable hourly rate for each of them is \$450.

2 **ii. Paralegals' Hourly Rates.**

3 Plaintiffs request hourly rates of \$175 and \$280 for Ms. Liu and Ms. Covill,
4 respectively. Ms. Liu joined Mr. Powell's office as a paralegal in May 2015 and has worked
5 on this case since Mr. Powell's office substituted into it. (Doc. No. 259-5 ¶ 4.) She does
6 not hold a paralegal certificate but is taking classes to obtain one. (Id. ¶ 5.) Ms. Covill, who
7 owns her own paralegal business, holds a paralegal certificate and has practiced as a
8 paralegal for approximately 31 years. (Doc. No. 259-10 at 2.) It is unclear when Ms. Covill
9 began working on this case. (See Doc. No. 259-2 ¶ 17.)

10 Plaintiffs' expert Mr. Leehey opines generally that the requested paralegal rates "are
11 more than reasonable." (Doc. No. 259-20 ¶ 18.) Ms. Sobel agrees, (Doc. No. 259-22 ¶ 27),
12 although the one Southern District case she cites, Franklin, has little bearing on this case.
13 See 2016 WL 402249 (awarding 25% of class settlement fund as attorneys' fees without
14 approving particular hourly rates). Plaintiffs submitted a declaration from attorney Donnie
15 Cox describing Ms. Covill's extensive experience and research and writing abilities. (Doc.
16 No. 279 ¶¶ 4, 5.) Mr. Cox, who has used Ms. Covill's services during two civil trials, notes
17 that he has requested \$280 per hour for Ms. Covill's services in a separate case, which is
18 currently on appeal. (Id. ¶ 6.) The County's expert recommends hourly rates for Ms. Liu
19 and Ms. Covill of \$75 and \$125, respectively. (Doc. No. 275-9 ¶ 114.)

20 In this District, \$90 to \$210 per hour is generally reasonable for paralegal work, but
21 this represents "a wide range depending on the education, skill and experience of the
22 particular paralegal." Makaeff, 2015 WL 1579000, at *5 (citing Brighton Collectibles, Inc.
23 v. Coldwater Creek Inc., No. 6-CV-1848, 2009 WL 160235, at *4 (S.D. Cal. Jan. 20,
24 2009)); see also In re Maxwell Techs., Inc., No. 13-CV-966, 2015 WL 12791166, at *5
25 (S.D. Cal. July 13, 2015) (finding in shareholder derivative action that "paralegal rates
26 approved in this district have generally ranged from \$125 to \$175, although they have been
27 approved as high as \$290").

28 Given Ms. Liu's and Ms. Covill's respective degrees of skill and experience, and the

generally permissible range of hourly rates for paralegals in this District, the Court concludes that reasonable hourly rates for Ms. Liu and Ms. Covill are \$100 and \$200, respectively.

iii. Summary of Reasonable Rates.

The Court has determined that the following reasonable rates apply to Plaintiffs' attorneys and paralegals:

Attorney/Paralegal	Reasonable Hourly Rate
Robert Powell	\$600
Sarah Marinho	\$250
Gerald Singleton	\$450
Shawn McMillan	\$450
Chang Liu	\$100
Alicia Covill	\$200

c. Lodestar Calculation.

The Court will calculate the lodestar figure upon reviewing supplemental briefing from Plaintiffs consistent with this Order. The supplemental briefing, which will not waive any of the parties' objections, should include revised billing records that reflect the Court's determination of a reasonable number of hours and reasonable hourly rates, detailed above.

2. Adjustments to the Lodestar.

The Court may adjust the lodestar figure upward or downward based on the Kerr factors. Gonzalez, 729 F.3d at 1209. The County requests a downward adjustment to account for Plaintiffs' "lack of success, excessive and unnecessary billing, and unreasonably high requested hourly rates." (Doc. Nos. 275 at 9, 275-9 ¶ 160.) Because the Court already considered these issues when determining a reasonable number of hours and reasonable hourly rates, no further adjustment to the lodestar is necessary. See Gonzalez, 729 F.3d at 1209 n.11. Accordingly, the Court adopts the presumptively reasonable lodestar figure, id. at 1201, which the Court will calculate upon reviewing Plaintiffs'

1 supplemental briefing.

2 **3. Out-Of-Pocket Expenses.**


3 As to any request for costs, Plaintiffs should first address the Clerk of Court, who
4 will hold a hearing on Plaintiffs' Bill of Costs on December 14, 2017. (Doc. No. 274.)
5 Plaintiffs are the prevailing party for purposes of taxation of costs. If any party is
6 dissatisfied with the outcome of that hearing, they may file a motion to retax costs pursuant
7 to Local Rule 54. See CivLR 54.1(h).

8 **CONCLUSION**

9 For the reasons discussed above, the Court grants Plaintiffs reasonable attorneys'
10 fees in an amount to be determined based on supplemental briefing consistent with this
11 Order's determination of a reasonable number of hours and reasonable hourly rates.
12 Without waiving any objections, Plaintiffs should submit supplemental briefing, including
13 revised billing records consistent with this Order, on or before **January 12, 2018**. The
14 County should file any objection on or before **January 26, 2018**.

15 **IT IS SO ORDERED.**

16 DATED: December 8, 2017

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18 MARILYN L. HUFF, District Judge
19 UNITED STATES DISTRICT COURT
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